

From: David Friedman
To: Microsoft ATR
Date: 1/23/02 12:49pm
Subject: Microsoft Settlement

I am concerned about certain deficiencies in the Proposed Final Judgment in the Microsoft case.

Specifically, it appears to me that the PFJ may not offer sufficient protection to development of middleware to allow Microsoft applications to interoperate with non-Microsoft operating systems, particularly Linux.

The substance of my concern is spelled out in a document available on the Web at the following URL:

<http://www.kegel.com/remedy/remedy2.html#abe>

The text below is a verbatim reproduction of the pertinent paragraph:

The PFJ tries to erode the Applications Barrier to Entry in two ways:

1. By forbidding retaliation against OEMs, ISVs, and IHVs who support or develop alternatives to Windows.
2. By taking various measures to ensure that Windows allows the use of non-Microsoft middleware.

A third option not provided by the PFJ would be to make sure that Microsoft raises no artificial barriers against non-Microsoft operating systems which implement the APIs needed to run application programs written for Windows. The Findings of Fact (?52) considered the possibility that competing operating systems could implement the Windows APIs and thereby directly run software written for Windows as a way of circumventing the Applications Barrier to Entry. This is in fact the route being taken by the Linux operating system, which includes middleware (named WINE) that can run many Windows programs.

By not providing some aid for ISVs engaged in making Windows-compatible operating systems, the PFJ is missing a key opportunity to encourage competition in the Intel-compatible operating system market. Worse yet, the PFJ itself, in sections III.D. and III.E., restricts information released by those sections to be used "for the sole purpose of interoperating with a Windows Operating System Product". This prohibits ISVs from using the information for the purpose of writing operating systems that interoperate with Windows programs.

David H. Friedman
dhfx@realtime.net

